

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

ERIC WHALEN

Plaintiff,

vs.

**5:08-CV-0246
(NAM/GHL)**

**CITY OF SYRACUSE, a municipal corporation;
SYRACUSE POLICE DEPARTMENT; S.H.
MARTE, individually and in his official capacity
as a Syracuse Police Officer; et al,**

Defendants.

APPEARANCES

Eric Whalen
Plaintiff *Pro Se*

Norman A. Mordue, Chief United States Judge

ORDER

The above matter comes to this Court following a Report-Recommendation by Magistrate Judge George H. Lowe, duly filed on the 1st day of April 2008. Following ten days from the service thereof, the Clerk has sent this Court the file, including the objections filed by plaintiff.

After careful *de novo* review of the matter pursuant to 28 U.S.C. § 636(b)(1)(C), this Court hereby accepts and adopts the Report and Recommendation in its entirety. It is therefore

ORDERED that the Report and Recommendation (Dkt. No. 4) of United States Magistrate Judge George H. Lowe is accepted and adopted; and it is further

ORDERED that the complaint is dismissed for failure to state a claim; and it is further

ORDERED that plaintiff may file an amended complaint **within 30 days** of the date of this Order; and it is further

ORDERED that **if plaintiff fails to timely file an amended complaint, the Clerk shall enter judgment dismissing this action without further order of this Court** due to Plaintiff's failure to comply with the terms of this Order; and it is further

ORDERED that upon the filing of an amended complaint, the file in this matter be returned to United States Magistrate Judge George H. Lowe for further review, and it is further

ORDERED that the Clerk serve a copy of this Order on plaintiff.

Notice to plaintiff: If you do not file an amended complaint within 30 days of the date of this order, your action will be dismissed without further notice or opportunity to respond.

IT IS SO ORDERED.

Dated: April 8, 2008
Syracuse, New York


Norman A. Mordue
Chief United States District Court Judge